

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

DAVID HOPPAUGH,)
Individually and On Behalf)
of All Others Similarly) Case No. 1:12-cv-103
Situated,) Alexandria, Virginia
)
Plaintiff,) July 19, 2013
) 10:35 a.m.
v.)
)
K12, INC., *et al.*,)
)
Defendants.)

TRANSCRIPT OF HEARING

BEFORE THE HONORABLE CLAUDE M. HILTON

UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: James J. Holt, Esq.
Nicole M. Zeiss, Esq.
Jonathan Gardner, Esq.
Francis P. McConville, Esq.
Eugene J. Benick, Esq.

For the Defendants: Kevin H. Metz, Esq.
Timilin K. Sanders, Esq.

Court Reporter: Tracy L. Westfall, RPR, CMRS, CCR

25 Proceedings reported by machine shorthand, transcript produced by computer-aided transcription.

1 P R O C E E D I N G S

2 THE CLERK: Civil action 2012-103, *David Hoppaugh v.*
3 *K12, Incorporated, et al.*

4 MR. HOLT: Good morning, Judge. James Holt, local
5 counsel for the plaintiffs.

6 MS. ZEISSL: Good morning, Your Honor. Nicole Zeiss
7 from Labaton Sucharow, class counsel for the class and lead
8 plaintiff, Arkansas Teacher.

9 MR. GARDNER: Good morning, Your Honor. Jonathan
10 Gardner from Labaton Sucharow for the class as well.

11 MR. MCCONVILLE: Good morning, Your Honor. Francis
12 McConville for non-lead counsel.

13 MR. BENICK: Good morning, Your Honor. Eugene Benick
14 from Finkelstein Thompson for non-lead counsel.

15 MR. METZ: Good morning, Your Honor. Kevin Metz of
16 Latham & Watkins for the defendants.

17 MS. SANDERS: Good morning, Your Honor. Timilin
18 Sanders for the defendants.

19 THE COURT: All right. We're on for me to approve a
20 final settlement; is that correct?

21 MS. ZEISSL: Yes, Your Honor. Nicole Zeiss, Labaton
22 Sucharow.

23 We're pleased to be here today to present for final
24 approval of the settlement of this class action for
25 \$6.75 million for the benefit of investors in K12 common stock.

1 The settlement provides for substantial and immediate
2 recovery and completely resolves the action. We're also pleased
3 that we've had absolutely no objections or opt-out requests. We
4 essentially are seeking three types of relief today.

5 Final approval of the settlement, and we have submitted
6 a final order and judgment that's been negotiated by the parties
7 for Your Honor to sign. One part of that judgment is final
8 approval of the stipulation of voluntary dismissal that Your
9 Honor previously so ordered. But now that we're past the period
10 of notifying the class, it's the time to finally approve it.

11 We're also seeking approval of the plan of allocation.
12 And we've submitted an order -- an order to the Court to do
13 that. That's the way that the settlement will be distributed
14 among eligible claimants.

15 And we are seeking an award of attorneys' fees of
16 25 percent of the settlement fund and litigation expenses of
17 about \$500,000.

18 Again, no one is has objected or sought to opt out of
19 the settlement. We're also opposing the fee request of Faruqi,
20 non-lead counsel in the action. I'm happy to answer some
21 questions if the Court has any.

22 THE COURT: I don't think I have any questions.

23 Nobody has any objection to this. The only objection
24 is the objection you have to the fees requested by the
25 initial --

1 MS. ZEISSL: That's right, Your Honor.

2 THE COURT: -- plan. I'll take one further look. I've
3 looked at this a little bit. I'll take one further look as to
4 those fees. I'm inclined to think that those may be reasonable
5 as well. Let me take a look and see, give it one more look
6 before I put my name on it. All right.

7 MS. ZEISSL: Thank you.

8 THE COURT: I'll try to do that for you -- I'll do it
9 the first of the week. As you heard, I've got a case to try on
10 Monday. So to tell you I'll get it done Monday, I'm not real
11 sure, but I'll do my best to get it Monday or Tuesday.

12 MS. ZEISSL: Thank you, Your Honor.

13 MR. GARDNER: I just want to clarify what I heard to
14 make sure I understand. When you say that you're going to take
15 another look at the fee request, you're talking about lead
16 counsel's fee request?

17 THE COURT: No. I have no problem with that.

18 I'm going to take one more look at that objection. I
19 saw your objection. I took a brief look at it. As I say, I'm
20 inclined to think that that ought to be awarded. But I'll take
21 a second look at it before I --

22 MR. GARDNER: Would you like to hear argument on it
23 because there were some things in the reply that we didn't get
24 an opportunity to respond to?

25 THE COURT: I don't think that's necessary. I've heard

1 a lot of argument this morning. I don't think I need any more
2 in a fee case.

3 MR. GARDNER: The only -- let me -- if there were one
4 point I would make, it would be if you're inclined to award any
5 fees to non-plead plaintiff, we would ask that they be in the
6 same proportion multiplier to lead counsel's fees.

7 We're asking for only .21 on the multiplier of the time
8 we put in, and that should apply to any fee request from any
9 counsel. Thank you, Your Honor.

10 MR. MCCONVILLE: Your Honor, if I may respond to that.

11 THE COURT: All right.

12 MR. MCCONVILLE: My name is Francis McConville from
13 Faruqi & Faruqi.

14 I'd just like to respond to the suggestion that we be
15 bound to the same multiplier as lead counsel. We obviously
16 didn't litigate the case once the lead plaintiff was appointed,
17 and thereafter we weren't putting forward the same amount of
18 hours that they did.

19 I think it would be totally reasonable to request a fee
20 that was exactly the lodestar amount that we put forward as the
21 reasonable amount. This has been reflected in the case law in
22 the past, and we believe that it's a reasonable amount. We
23 would have -- we would hope that the Court would approve that as
24 well. Thank you.

25 THE COURT: All right. I'll take a look at it.

1 MR. METZ: Your Honor, Kevin Metz for the defendants.

2 Just to clarify. Are you going to wait until next week
3 to enter the final order on the judgment as well?

4 THE COURT: Well, that was my inclination. Is it
5 really important that I do it today?

6 MR. METZ: It's not. I just was hoping I could advise
7 my client of the timing.

8 THE COURT: What I plan to do is just enter all of them
9 at one time.

10 MR. METZ: So early next week?

11 THE COURT: Yes.

12 MR. METZ: Thank you, Your Honor.

13 THE COURT: All right. Thank you.

14 * * *

15 (Proceedings concluded at 10:41 a.m.)

16

CERTIFICATION

3 I certify, this 4th day of December 2014, that the
4 foregoing is a correct transcript from the record of proceedings
5 in the above-entitled matter to the best of my ability.

/s/

Tracy Westfall, RPR, CMRS, CCR